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5 Attorneys for Defendant  
6 Department Stores National Bank

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

10  
11 AMY NGUYEN, ) CASE NO.:  
12 Plaintiff, ) ) NOTICE OF REMOVAL BY DEFENDANT  
13 v. ) ) Pursuant to 28 U.S.C. Section 1331  
14 DEPARTMENT STORES NATIONAL ) ) (Federal Question)  
15 BANK, )  
16 Defendants. )  
17 )  
18 )

19 TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF  
20 CALIFORNIA:

21 PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. Sections 1331, 1441(b) and  
22 Section 1446 of Title 28 of the United States Code, defendant Department Stores National  
23 Bank ("Defendant") hereby removes the action entitled Amy Nguyen v. Department Stores  
24 National Bank, Superior Court of the State of California for the County of Orange, Case No.  
25 30-2015-00806172-CL-NP-CJC (the "Action"), filed by plaintiff Amy Nguyen ("Plaintiff"), to the  
26 United States District Court for the Central District of California, Southern Division, on the  
27 following grounds:  
28

1. On or about October 2, 2015, Defendant received service of Plaintiff's Summons and Complaint. True and correct copies of the Plaintiff's Summons and Complaint, purportedly served on Defendant, is attached hereto as Exhibit "1".

2. Defendant has timely filed this Notice of Removal within thirty days of the purported service of the Summons and Complaint. See 28 U.S.C. Section 1446(b).

## **FEDERAL QUESTION**

3. The Action is a civil action of which this Court has original jurisdiction under 28 U.S.C. Section 1331 and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. Section 1441, in that Plaintiff alleges violation of the Telephone Consumer Protection Act, 47 U.S.C. Section 227. A claim that is created by, and arises under, federal law. To the extent any other claims in the Action may arise under state law, supplemental jurisdiction over such claims exists pursuant to 28 U.S.C. Sections 1337 and 1441(c).

4. This Court is the proper district court for removal because the Superior Court of California, County of Orange, Central Division, is located within the United States District Court for the Central District of California, Southern Division.

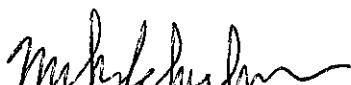
5. True and correct copies of all other pleadings, process, and orders served upon Defendant in the Action are attached in composite as Exhibit "2".

6. A true and correct copy of Defendant's Answer to Complaint, served upon Plaintiff in the Action is attached hereto as Exhibit "3".

7. Defendant simultaneously is filing a copy of this Notice of Removal with the Superior Court of the State of California for the County of Orange, Central Division, Limited Civil. Defendant will serve Plaintiff with copies of this Notice of Removal and the Notice filed in state court.

1           8. By virtue of this Notice of Removal of Action and the Notice filed in the Action,  
2 Defendant does not waive its rights to assert any personal jurisdictional defense or other  
3 motions including Rule 12 motions and/or motions to compel arbitration permitted  
4 by the Federal Rules of Civil Procedure.

5 DATED: October 30, 2015       LAW OFFICES OF MICHAEL D. SCHULMAN

6  
7           By   
8           MICHAEL D. SCHULMAN  
9           Attorneys for DEPARTMENT STORES  
10           NATIONAL BANK

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# **EXHIBIT “1”**

**SUMMONS**  
**(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**  
DEPARTMENT STORES NATIONAL BANK

**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
AMY NGUYEN

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Orange

08/24/2015 at 04:33:19 PM

Clark of the Superior Court  
By Rita Strom, Deputy Clerk

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. *(AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lee la información a continuación.)*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Superior Court of Orange County

700 Civic Center Drive West  
Santa Ana, Ca 92701

CASE NUMBER:  
(Número): 30-2015-00808172-CL-NP-CJC

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Todd M. Friedman, 324 S. Beverly Dr., #725, Beverly Hills, CA 90212, 877-206-4741

DATE: 08/24/2015 ALAN CARLSON, Clerk of the Court  
(Fecha)

Clerk, by  
(Secretario)

Rita J. Strom, Deputy  
(Adjunto)

Rita Strom

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify):

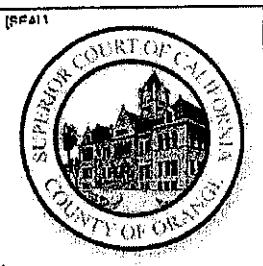
under:  CCP 416.10 (corporation)  
 CCP 416.20 (defunct corporation)  
 CCP 416.40 (association or partnership)  
 CCP 416.60 (minor)  
 CCP 416.70 (conservatee)  
 CCP 416.90 (authorized person)

4.  other (specify):

4.  by personal delivery on (date):

RR  
10/2/15

Page 1 of 2  
Code of Civil Procedure §§ 412.20, 485  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)



Form Adopted for Mandatory Use  
Judicial Council of California  
SUM-100 [Rev. July 1, 2009]

**SUMMONS**

APS-3

1105AM

American LegalNet, Inc.  
[www.FormWorkflow.com](http://www.FormWorkflow.com)

1 Todd M. Friedman (216752)  
2 Law Offices of Todd M. Friedman, P.C.  
3 324 S. Beverly Dr. #725  
4 Beverly Hills, CA 90212  
5 Phone: 877-206-4741  
6 Fax: 866-633-0228  
7 tfriedman@attorneysforconsumers.com  
8 Attorney for Plaintiff

ELECTRONICALLY FILED  
Superior Court of California,  
County of Orange  
08/24/2015 at 04:33:19 PM  
Clerk of the Superior Court  
By Rita Strom, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE  
LIMITED JURISDICTION

9 ) Case No. 3D-2015-00806172-CL-NP-CJC  
10 )  
11 ) AMY NGUYEN, ) (Amount not to exceed \$10,000)  
12 ) Plaintiff, )  
13 ) vs. ) 1. Violation of Rosenthal Fair Debt  
14 ) DEPARTMENT STORES NATIONAL ) Collection Practices Act  
15 ) BANK, ) 2. Violation of Telephone Consumer  
16 ) Defendant. ) Protection Act  
17 )  
18 )

---

I. INTRODUCTION

20 1. This is an action for damages brought by an individual consumer for Defendant's  
21 violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.*  
22 (hereinafter "RFDCPA") which prohibits debt collectors from engaging in abusive, deceptive,  
23 and unfair practices. Ancillary to the claims above, Plaintiff further alleges claims for  
24 Defendant's violations of the Telephone Consumer Protection Act., 47 U.S.C. §227, *et seq.*  
25 (hereinafter "TCPA").

26  
27 ///  
28 ///

1  
II. PARTIES

2. Plaintiff, Amy Nguyen ("Plaintiff"), is a natural person residing in Orange  
3 County in the state of California and is a "debtor" as defined by Cal Civ Code §1788.2(h).

3. At all relevant times herein, Defendant, Department Stores National Bank  
4 ("Defendant"), was a company engaged, by use of the mails and telephone, in the business of  
5 collecting a debt from Plaintiff which qualifies as a "consumer debt," as defined by Cal Civ  
6 Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due them, and  
7 therefore is a "debt collector" as defined by the RFDCPA, Cal Civ Code §1788.2(c). Further,  
8 Defendant uses an "automatic telephone dialing system" as defined by the TCPA, 47 U.S.C.  
9 §227.

10  
III. FACTUAL ALLEGATIONS

11  
4. At various and multiple times prior to the filing of the instant complaint,  
12 including within the one year preceding the filing of this complaint, Defendant contacted  
13 Plaintiff in an attempt to collect an alleged outstanding debt from telephone # (800)295-4057..

14  
5. On or about March of 2015, Defendant began contacting Plaintiff concerning an  
15 alleged debt owed with respect to a Macy's Department Stores credit account. Defendant  
16 called Plaintiff on Plaintiff's cellular telephone number ending in -2175

17  
6. In fact, Defendant began numerously calling Plaintiff regarding the  
18 aforementioned alleged debt owed. The calls from Defendant were so numerous, frequent, and  
19 repetitive that Plaintiff felt harassed by said calls. The number, pattern, and frequency of calls  
20 from Plaintiff also evidences Defendant's intent to harass Plaintiff.

1       7. Furthermore, during all relevant times, Defendant used an "automatic telephone  
2 dialing system," as defined by 47 U.S.C. § 227(a)(1), to place its repeated collection calls to  
3 Plaintiffs seeking to collect the debt allegedly owed.

4       8. Defendant's calls constituted calls that were not for emergency purposes as  
5 defined by 47 U.S.C. § 227(b)(1)(A).

6       9. Defendant's calls were placed to telephone number assigned to a cellular  
7 telephone service for which Plaintiffs incur a charge for incoming calls pursuant to 47 U.S.C.  
8 §227(b)(1).

9       10. During all relevant times, Defendant did not have Plaintiff's consent to be  
10 contacted via an "automated telephone dialing system."

11      11. On or about May 21, 2015, Plaintiff sent to Defendant a notice of legal  
12 representation. Defendant has failed to respond at this time.

13      12. §1788.17 of the RFDCPA mandates that every debt collector collecting or  
14 attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to  
15 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the  
16 United States Code statutory regulations contained within the FDCPA, 15 U.S.C. §1692d, and  
17 §1692d(5).

18      13. Defendant's conduct violated the RFDCPA in multiple ways, including but not  
19 limited to:

- 20
- 21       a) Causing Plaintiff's telephone to ring repeatedly or continuously  
22           with intent to harass, annoy or abuse Plaintiff (§1692d(5));
  - 23       b) Communicating with Plaintiff at times or places which were  
24           known or should have been known to be inconvenient for  
25           Plaintiff (§ 1692c(a)(1));
  - 26       c) Causing a telephone to ring repeatedly or continuously to annoy  
27           Plaintiff (Cal Civ Code §1788.11(d));

- d) Communicating, by telephone or in person, with Plaintiff with such frequency as to be unreasonable and to constitute an harassment to Plaintiff under the circumstances (Cal Civ Code §1783.11(e)); and
  - e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (§1692d)).

14. Defendant's conduct violated the TCPA by:

- a) using any automatic telephone dialing system or an artificial or pre-recorded voice to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call (47 USC §227(b)(A)(iii)).

15. As a result of the above violations of the RFDCPA and TCPA, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

COUNT I: VIOLATION OF ROSENTHAL  
FAIR DEBT COLLECTION PRACTICES ACT

16. Plaintiff reincorporates by reference all of the preceding paragraphs.

17. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
  - B. Statutory damages for willful and negligent violations;
  - C. Costs and reasonable attorney's fees;

D. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF TELEPHONE  
CONSUMER PROTECTION ACT**

6       18. Plaintiff incorporates by reference all of the preceding paragraphs.  
7  
8       19. The foregoing acts and omissions of Defendant constitute numerous and  
9 multiple negligent violations of the TCPA, including but not limited to each and every one of  
10 the above cited provisions of *47 U.S.C. § 227 et seq.*

11       20. As a result of Defendant's negligent violations of 47 U.S.C. §227 *et seq.*,  
12 Plaintiff is entitled an award of \$500.00 in statutory damages, for each and every violation,  
13 pursuant to 47 U.S.C. § 227(b)(3)(B).  
14

15        21. The foregoing acts and omissions of Defendant constitute numerous and  
16 multiple knowing and/or willful violations of the TCPA, including but not limited to each and  
17 every one of the above cited provisions of 47 U.S.C. § 227 *et seq.*

22           23. Plaintiff is entitled to and seeks injunctive relief prohibiting such conduct in the  
23 future.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the  
Defendant for the following:

28 A. As a result of Defendant's negligent violations of 47 U.S.C.  
§227(b)(1), Plaintiff is entitled to and request \$500 in statutory

damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B);

- B. As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff is entitled to and requests treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C) and

C. Any and all other relief that the Court deems just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 24<sup>th</sup> day of August, 2015

By:

Todd M. Friedman, Esq.  
Law Offices of Todd M. Friedman, P.C.  
Attorney for Plaintiff

**EXHIBIT "2"**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Todd M. Friedman, Esq. SBN 216752 Law Offices of Todd M. Friedman 324 S. Beverly Dr., #725 Beverly Hills, CA 90212 TELEPHONE NO: 877-206-4741 FAX NO: 866-633-0228 ATTORNEY FOR (Name): Plaintiff, Amy Nguyen		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, Ca 92701 BRANCH NAME:		ELECTRONICALLY FILED Superior Court of California, County of Orange <b>08/24/2015 at 04:33:19 PM</b> Clerk of the Superior Court By Rita Strom, Deputy Clerk
CASE NAME: Amy Nguyen v. Department Stores National Bank		CASE NUMBER: 3D-2015-00806172-CL-NP-CJC
CIVIL CASE COVER SHEET <input type="checkbox"/> Unlimited <input checked="" type="checkbox"/> Limited (Amount demanded demanded exceeds \$25,000)      (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:	Contract <input type="checkbox"/> Auto Tort <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Uninsured motorist (48) <input type="checkbox"/> Rule 3.740 collections (09) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Other PI/PD/WD (23) <input type="checkbox"/> Securities litigation (28) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Other PI/PD/WD tort (35) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Other contract (37) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Real Property <input type="checkbox"/> Other real property (26) <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Employment <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Other judicial review (39) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Miscellaneous Civil Complaint <input type="checkbox"/> Other complaint (not specified above) (42) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Miscellaneous Civil Petition <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Employment <input type="checkbox"/> Drugs (38) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Other petition (not specified above) (43)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	---

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a.  Large number of separately represented parties
- b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c.  Substantial amount of documentary evidence
- d.  Large number of witnesses
- e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary      b.  nonmonetary; declaratory or injunctive relief      c.  punitive

4. Number of causes of action (specify): 2

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 24, 2015

Todd M. Friedman

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES	
Auto Tort	Contract
Auto (22)–Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (08) Breach of Rental/Lease
Uninsured Motorist (46) ( <i>If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i> )	Contract ( <i>not unlawful detainer or wrongful eviction</i> ) Contract/Warranty Breach–Seller Plaintiff ( <i>not fraud or negligence</i> ) Negligent Breach of Contract/Warranty
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case–Seller Plaintiff Other Promissory Note/Collections Case
Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/ Wrongful Death	Insurance Coverage ( <i>not provisionally complex</i> ) (18) Auto Subrogation Other Coverage
Product Liability ( <i>not asbestos or toxic/environmental</i> ) (24)	Other Contract (37) Contractual Fraud Other Contract Dispute
Medical Malpractice (45) Medical Malpractice–Physicians & Surgeons	Real Property
Other Professional Health Care Malpractice	Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33)
Other PI/PD/WD (23)	Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property Mortgage Foreclosure Quiet Title
Premises Liability (e.g., slip and fall)	Other Real Property ( <i>not eminent domain, landlord/tenant, or foreclosure</i> )
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Unlawful Detainer
Intentional Infliction of Emotional Distress	Commercial (31) Residential (32)
Negligent Infliction of Emotional Distress	Drugs (38) ( <i>if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i> )
Other PI/PD/WD	Judicial Review
Non-PI/PD/WD (Other) Tort	Asset Forfeiture (05) Petition Re: Arbitration Award (11)
Business Tort/Unfair Business Practice (07)	Writ of Mandate (02) Writ–Administrative Mandamus Writ–Mandamus on Limited Court Case Matter
Civil Rights (e.g., discrimination, false arrest) ( <i>not civil harassment</i> ) (08)	Writ–Other Limited Court Case Review
Defamation (e.g., slander, libel) (13)	Other Judicial Review (39) Review of Health Officer Order Notice of Appeal–Labor Commissioner Appeals
Fraud (16)	
Intellectual Property (19)	
Professional Negligence (25)	
Legal Malpractice	
Other Professional Malpractice ( <i>not medical or legal</i> )	
Other Non-PI/PD/WD Tort (35)	
Employment	
Wrongful Termination (36)	
Other Employment (15)	

## Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment  
Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint  
RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition  
Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

**EXHIBIT "3"**

1 LAW OFFICES OF MICHAEL D. SCHULMAN  
2 MICHAEL D. SCHULMAN, ESQ. SBN 137249  
3 18757 Burbank Blvd., Suite 310  
4 Tarzana, CA 91356-3375  
5 Telephone: (818) 999-5553  
6 Fax : (818) 999-5570  
7 mike@schulmanlawoffices.com

8 Attorneys for Department Stores National Bank

9

10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

11 Amy Nguyen, CASE NO. 30-2015-00806172-CL-NP-CJC  
12 Plaintiff,  
13 vs.  
14 Department Stores National Bank,  
15 Defendant.

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ANSWER OF DEPARTMENT STORES  
NATIONAL BANK TO COMPLAINT

Defendant, Department Stores national Bank (the "Bank"), for itself alone and for no other defendant or defendants, answers in response to Plaintiff's Amy Nguyen's ("Plaintiff") Complaint on file herein as follows:

1. Under and in accordance with the provisions of Section 431.30 of the California Code of Civil Procedure, the Bank denies, both generally and specifically, each and every allegation contained in each paragraph of the Complaint and the Bank expressly denies that Plaintiff is entitled to recover from the Bank any sum or sums whatsoever.

FIRST AFFIRMATIVE DEFENSE

2. The Complaint fails to state facts sufficient to constitute a cause of action against the BANK.

1                           SECOND AFFIRMATIVE DEFENSE

2         3. The Bank contends that Plaintiff is not entitled to any damages from the Bank  
3 due to improper joinder.

4                           THIRD AFFIRMATIVE DEFENSE

5         4. If the Plaintiff suffered or sustained any loss or damage, the same was directly  
6 and proximately caused and contributed to by the conditions and hazards of which  
7 Plaintiff is well aware and assumed the risks thereof.

8                           FOURTH AFFIRMATIVE DEFENSE

9         5. Plaintiff, by the exercise of diligence, could have mitigated against the  
10 damages alleged in the Complaint; therefore, the damages, if any, suffered by Plaintiff,  
11 must be reduced, diminished or defeated by such amounts as should have been  
12 mitigated by her.

13                          FIFTH AFFIRMATIVE DEFENSE

14         6. Plaintiff has come to the Court with unclean hands and is not entitled to any  
15 affirmative relief from this Court.

16                          SIXTH AFFIRMATIVE DEFENSE

17         7. Plaintiff is estopped from asserting any obligation of the Bank by Plaintiff  
18 and/or Plaintiff's agents' own conduct.

19                          SEVENTH AFFIRMATIVE DEFENSE

20         8. Liability owed to Plaintiff, if any, is owed by parties other than the Bank.

21                          EIGHTH AFFIRMATIVE DEFENSE

22         9. Plaintiff consented to and approved all of the acts and omissions about which  
23 she now complains.

24                          NINTH AFFIRMATIVE DEFENSE

25         10. If Plaintiff suffered or sustained any loss, injury, damage or detriment, the  
26 same was directly and proximately caused and contributed to by the breach, conduct,  
27 acts, omissions, activities, carelessness, recklessness, negligence, and/or intentional  
28 misconduct of Plaintiff and not the Bank.

## TENTH AFFIRMATIVE DEFENSE

2        11. The Complaint is barred, in whole or in part, because any alleged wrongful  
3 conduct on the part of the Bank, which is assumed only for the purpose of this  
4 affirmative defense, was not intentional and resulted from a bona fide error  
5 notwithstanding the maintenance of procedures reasonably adapted to avoid any such  
6 error.

## **ELEVENTH AFFIRMATIVE DEFENSE**

8       12. The Bank specifically denies that it acted with any oppression, fraud or  
9 malice towards Plaintiff or others.

**TWELFTH AFFIRMATIVE DEFENSE**

11       13. If the Bank is determined to have any liability to the Plaintiff, the amount of  
12 such liability, if any, is subject to setoff of the amounts owed by Plaintiff to the Bank.

## **THIRTEENTH AFFIRMATIVE DEFENSE**

14. The Bank is immune, in whole or in part, from Plaintiff's claims.

## FOURTEENTH AFFIRMATIVE DEFENSE

16 ||| 15. Plaintiff's claims are pre-empted, in whole or in part.

## FIFTEENTH AFFIRMATIVE DEFENSE

18       16. Plaintiff is precluded from asserting any obligation of the Bank due to  
19 Plaintiff's failure to comply with conditions precedent.

## SIXTEENTH AFFIRMATIVE DEFENSE

21 | 17. The Bank's conduct was privileged at all relevant times.

## SEVENTEENTH AFFIRMATIVE DEFENSE

18. The acts and conduct of Plaintiff and/or Plaintiff's agents precluded and  
interfered with any such acts or conduct required to be performed on the part of the  
Bank.

## EIGHTEENTH AFFIRMATIVE DEFENSE

27       19. The Bank contends that Plaintiff's Complaint and each cause of action  
28 contained therein, is barred by applicable statute of limitations

## NINETEENTH AFFIRMATIVE DEFENSE

2       20. The Bank reserves the right to assert additional and/or further affirmative  
3 defenses during the course of this litigation as such become known throughout the  
4 course of this litigation.

WHEREFORE, the Bank prays for judgment against Plaintiff as follows:

1. That Plaintiff take nothing by way of her Complaint;
  2. That the Bank be awarded its attorney fees, costs and disbursements  
ed herein;
  3. For such other and further relief as this Court deems just and proper.

10 DATED: October 30, 2015 LAW OFFICES OF MICHAEL D. SCHULMAN

By Michael D. Schulman  
Michael D. Schulman  
Attorneys for Department Stores National Bank

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4  
5 I am employed in the county of Los Angeles, State of California. I am over the age  
of 18 and not a party to the within action; my business address is 18757 Burbank Blvd.,  
6 Suite 310, Tarzana, CA 91356-3375.

7 On October 30, 2015, I served the document described as: **ANSWER OF**  
**8 DEPARTMENT STORES NATIONAL BANK TO COMPLAINT** on the interested parties  
in this action by placing a true copy thereof enclosed in sealed envelope addressed as  
9 follows:

10 Todd M. Friedman, Esq.  
11 Law offices of Todd M. Friedman  
12 324 S. Beverly Drive, Suite 725  
Beverly Hills, CA 90212

13 X BY MAIL

14 As follows: I am "readily familiar" with the firm's practice of collection and  
15 processing correspondence for mailing. Under that practice it would be deposited with  
16 U.S. postal service on the same day with postage thereon fully prepaid at Los Angeles,  
17 California in the ordinary course of business. I am aware that on motion of the party  
served, service is presumed invalid if postal cancellation date or postage meter date is  
more than one day after date of deposit for mailing in affidavit.

18 \_\_\_\_\_ BY PERSONAL DELIVERY.

19 \_\_\_\_\_ BY FACSIMILE DELIVERY.

21 X (State) I declare under penalty of perjury under the laws of the State of California that  
the above is true and correct.

22 \_\_\_\_\_ (Federal) I declare that I am employed in the office of a member of the bar of this  
23 court at whose direction the service was made.

24 Executed on October 30, 2015, at Tarzana, California.

27 Yvette Montejo

  
Signature



yvette@schulmanlawoffice.com  
MICHAEL D. SCHULMAN, LAW  
Account #: 40874

My Prof

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**Order Summary**

**eFiling (Existing Case)**

**County:** Orange

**Case Info:**  
Case Number: 30-2015-00806172-CL-NP-C  
Case Name: Nguyen vs. Department Stores  
Category: Civil - Limited  
Case Type: Non-PI/PD&WD tort - Other

**Case Participants:**  
Law Offices of Todd M. Friedman, P.C., Attc  
MICHAEL D. SCHULMAN, LAW OFFICES (Client)  
Department Stores National Bank, Defendant  
Nguyen, Amy, Plaintiff

**Document(s):**  
Answer (General Denial) (5 pages)

**Estimated Court Fees:**  
Total fees: \$225.00

**Order Details:**  
Notify:  
Michael Schulman  
Special Instructions: